

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

RICHARD BLANCARTE,)	
)	
Plaintiff,)	2:10-cv-1420-JCM-RJJ
)	
vs.)	
)	
WAL-MART STORES, INC.,)	REPORT AND RECOMMENDATION
)	OF UNITED STATES
)	MAGISTRATE JUDGE
Defendant,)	
)	

This matter was submitted to the undersigned Magistrate Judge on the failure of the Plaintiff, Richard Blancarte to appear for a hearing scheduled by the Court. *See*, Minutes of Proceedings (#23).

The Court having reviewed this matter makes the following findings:

1. Plaintiff has failed to participate in any discovery, including the taking of his scheduled and noticed deposition.
2. Plaintiff failed to attend the hearing on his attorney's motion to withdraw. *See*, Minutes of Proceeding (#13).
3. Plaintiff has failed to provide any current address or means of contact to the court and defendant's counsel. *See*, Returned Mail (#21 and #22).
4. Plaintiff has abandoned this case by refusing to prosecute it in a timely manner.
5. Plaintiff has not appeared in any matter related to this case in the past nine months.

1 6. Dismissal is an appropriate sanction for Plaintiff's failure to appear for his
2 deposition. Fed. R. Civ. P. 37(d)(1)(A)(i) and 37(b)(2)(A)(v) as applied through
3 Fed. R. Civ. P. 37(d)(3).

4 **RECOMMENDATION**

5 Based on the foregoing and good cause appearing therefore,

6 IT IS THE RECOMMENDATION of the undersigned Magistrate Judge that this case be
7 **DISMISSED WITH PREJUDICE.**

8 **NOTICE**

9 Pursuant to Local Rule IB 3-2 [former LR 510-2] any objection to this Report and
10 Recommendation must be in writing and filed with the Clerk of the Court within fourteen (14)
11 days after service of this Notice. The Supreme Court has held that the courts of appeal may
12 determine that an appeal has been waived due to the failure to file objections within the specified
13 time. Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986). This Circuit has
14 also held that (1) failure to file objections within the specified time and (2) failure to properly
15 address and brief the objectionable issues waives the right to appeal the District Court's order
16 and/or appeal factual issues from the order of the District Court. Martinez v. Ylst, 951 F.2d 1153
17 (9th Cir. 1991); Britt v. Simi Valley United Sch. Dist., 708 F.2d 452, 454 (9th Cir. 1983).

18 DATED this 12th day of August, 2011.

19
20
21 
22 ROBERT J. JOHNSTON
23 United States Magistrate Judge
24
25
26
27
28